

OUR VIEW: HIGH COURT FACES TOUGH CALL ON A SIMPLE QUESTION

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1 of 0

The state Supreme Court is pondering whether to sanction state lawmakers for failing to adequately fund public schools or even develop a plan to do so. Judges must decide the matter in the continual story regarding the landmark “McCleary v. State of Washington” case that charged that the state was not following the state Constitution, which clearly asserts that funding public education is the “paramount duty” of the legislature. The high court ruled that the state was underfunding education and ordered lawmakers to meet their Constitutional mandate by adding \$3.8 billion to the state’s public education system. That was back in 2012.

Lawmakers found \$1 billion for more public education in the current budget, but neither funded the full amount called for in the McCleary decision, nor did they present a plan to get to that \$3.8 billion amount in the foreseeable future.

The plaintiffs, made up of parent groups, educational programs and school districts, see the lack of process and how state lawmakers are continuing to fail Washington’s children. The matter made its way back to court recently, when the plaintiffs asked the Supreme Court to hold lawmakers in contempt of court for not following the order the court issued in January for more educational funding by the end of the year. The plan would establish a road map to fully fund educations by 2018, but that would require a special session and there seems little potential that they will to do that before the regular session starts in 2015.

During a hearing on Sept. 3, Supreme Court judges ordered state attorneys to present their case against why lawmakers shouldn’t be held in contempt. A contempt order could mean everything from fining lawmakers for failing to develop a plan that was ordered by the judges, to earmarking money to fully fund education so lawmakers would have fewer dollars for other programs such as roads, social services and government programs. Obviously, state attorneys argued that such action would hamper efforts to build on what little progress has been made and do more damage to the state as a whole than giving the legislature more time to find solutions through the political process. Lawmakers want another year to develop a plan. If allowed, it would be the third time lawmakers have stalled on forwarding a plan after previous deadlines had come and gone without it.

So the basic question is, “When is enough enough?”

To be fair, lawmakers have a slate of important issues to deal with and limited money to fund solutions to them in an increasingly politicized arena of grandstanding and governmental chess playing. But the state Constitution is the guiding document of their efforts and that document states: “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste or sex.” Washington’s is the only state constitution to specifically use the words “paramount

duty.” Those two words seem to make the decision clear. The first and most important duty of Washington’s lawmakers is to fund public education. They have not only failed to do that for decades, but thrice failed to develop a plan to do so when the state’s highest court ordered them to do just that.

The state’s argument that it has many pressing issues that also demand funding doesn’t hold much weight since none of those demands have the label of “paramount duty.” Roads, law enforcement, mental health funding and the host of other state issues are secondary to education. And yet lawmakers have not followed the high court’s ruling, leaving the court not much wiggle room to avoid penalizing state lawmakers.